

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

ORDER

SHRIKISHAN SADH VS. STATE OF RAJASTHAN & ORS.

(S.B.C.Writ Petition No.2581/03)

Date of order :- 15th December,2006.

PRESENT

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Mr.Kuldeep Mathur, Advoate for the petitioner.
Mr. Rameshwar Dave, Dy.Government Advocate.

The petitioner has filed this writ petition with the prayer that the respondents may be directed to grant the benefit of senior scale and selection scale to him as per the prescribed pay made by the University Grants Commission(for short "U.G.C.") for the Physical Training Instructors (for short "P.T.Is.") on the same terms and conditions on which their counter parts working in the State Government are entitled to such benefits under Career Advancement Scheme.

The petitioner has taken voluntary retirement from services of the State Government in the year 2003 from the post of P.T.I. while working at Government College, Nagaur(Rajasthan). The

Union Ministry of Education & Culture(Department of Education) accepted the recommendation made by the U.G.C. for upgradation of the pay scale of P.T.Is. and accordingly informed the State Government about its decision to upgrade their pay scale w.e.f. 1.4.1980 in order to remove the disparity with the pay scales of the teachers working in colleges and universities. It was informed that the Central Government would provide financial assistance to the extent of 80% of the additional expenditure involved in upgrading of the pay scales subject to the condition laid down in this regard by the U.G.C. While the various universities of the State of Rajasthan implemented the recommendations made by the U.G.C., the State Government did not extend this benefit to the petitioner on the ground that he was not having a requisite qualification for grant of U.G.C. pay scale. The petitioner then filed a writ petition before this Court which was later transferred to Rajasthan Civil Services Appellate Tribunal (for short "the Tribunal"). The Tribunal vide its judgment dated 30.3.2000 allowed the appeal and directed the respondents to make payment fixation of the salary of the petitioner in U.G.C. pay scale from the date of his initial appointment and also pay arrears together with interest @ 12% from the date of filing of writ petition. The respondents in compliance of the judgment of the Tribunal made pay fixation of the petitioner and also paid arrears

thereupon. However, they have not awarded the interest inspite of the directions given by the Tribunal. Further case of the petitioner is that while making his pay fixation, the respondents in their order dated 20.3.2003 have not correctly followed the U.G.C. guidelines. The petitioner has not been allowed the U.G.C. pay scales as per the Career Advancement Scheme inasmuch as he has not been allowed the benefit of senior scale and selection scale. As per the notification dated 15.12.1982, all P.T.Is. working in the pay scale of Rs.2200-4000 have been placed in a senior scale of Rs.3000-5000, if he/she has completed 8 years of service after regular appointment and has participated in two Refresher Courses/Summer Institutes. According to such notification such of the P.T.Is. who have successfully completed 8 years service in the senior scale would be further eligible for promotion to the selection scale in the pay scale of Rs.3700-5700. It is with these premises that the present writ petition has been filed with the prayers extracted above.

The respondents have filed a reply to the writ petition and have stated that in compliance of the order passed by the Tribunal on 30.3.2000 they have made pay fixation of the petitioner in the pay scale recommended by the U.G.C. and have also paid arrears on 20.2.2003. The State Government was requested to

accord administrative sanction for payment of interest by letter dated 4.8.2003 and soon upon receipt of sanction, payment of interest would be made. In so far as payment of senior pay scale is concerned, proposals are afoot for convening meeting of the Screening Committee to consider the cases of 20 P.T.Is. including that of the petitioner. Their cases have been referred to Rajasthan Public Service Commission for convening Screening Committee by letter dated 1.9.2003.

The petitioner has filed rejoinder in which he has submitted that during pendency of the writ petition, the Commissioner, College Education, Government of Rajasthan, Jaipur vide letter dated 8.4.2004 on the basis of the recommendation of Screening Committee has granted the benefit of senior scale to the petitioner w.e.f. 12.3.1989 and a copy of the order dated 8.4.2004 has been placed on record wherein the name of the petitioner appears at serial no. 14. The respondents have so far however not allowed the benefit of selection scale though the petitioner was fulfilling all the eligibility criteria for the purposes inasmuch as he having been granted the senior scale on 12.3.1989 was entitled to be conferred with the benefit of selection scale on completion of 8 years of service. As per the petitioner he possesses consistently

good appraisal reports and there was no reason for not granting him benefit of selection scale.

I have heard Mr.Kuldeep Mathur, learned counsel for the petitioner and Mr. Rameshwar Dave, learned Dy.Government Advocate for the State and perused the record.

Although, this writ petition was filed way back in the year 2003 and the order granting senior scale to the petitioner was passed as far as back as on 8.4.2004. The respondents however have not come out with any definite stand as to why the benefit of selection scale has not been granted to the petitioner. It would therefore be now appropriate to direct the respondents to pass a reasoned order either granting the benefit of selection scale or in case they decide not to grant such benefit to him, conveying the reasons for refusal thereof within three months to the petitioner. If eventually the petitioner is not granted the benefit of selection scale, he would be at liberty to file a fresh writ petition. The present writ petition is accordingly disposed of in terms of the aforesaid directions.

(MOHAMMAD RAFIQ), J.

